



4310-84-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3000

[18X.LLWO310000.L13100000.PP00000]

RIN 1004-AE70

Minerals Management: Adjustment of Cost Recovery Fees

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule updates the fees set forth in the Bureau of Land Management (BLM) mineral resources regulations for the processing of certain minerals program-related actions. It also adjusts certain filing fees for minerals-related documents. These updated fees include those for actions such as lease renewals and mineral patent adjudications.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send inquiries or suggestions to Director (630), Bureau of Land Management, 2134LM, 1849 C Street N.W., Washington, D.C. 20240; Attention: RIN 1004-AE70.

FOR FURTHER INFORMATION CONTACT: Lorenzo Trimble, Acting Chief, Division of Fluid Minerals, 202-912-7342, ltrimble@blm.gov; Alfred Elser, Acting Chief, Division of Solid Minerals, 202-912-7114, aelser@blm.gov; or Chandra Little, Regulatory Affairs, 202-912-7403, cclittle@blm.gov. Persons who use a

telecommunications device for the deaf (TDD) may leave a message for these individuals with the Federal Relay Service (FRS) at 1-800-877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Background

The BLM has specific authority to charge fees for processing applications and other documents relating to public lands under section 304 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1734. In 2005, the BLM published a final cost recovery rule (70 FR 58854) that established new fees or revised fees and service charges for processing documents related to its minerals programs (“2005 Cost Recovery Rule”). In addition, the 2005 Cost Recovery Rule also established the method the BLM would use to adjust those fees and service charges on an annual basis.

At 43 CFR 3000.12(a), the regulations provide that the BLM will annually adjust fees established in subchapter C (43 CFR parts 3000-3900) according to changes in the Implicit Price Deflator for Gross Domestic Product (IPD-GDP), which is published quarterly by the U.S. Department of Commerce. See also 43 CFR 3000.10. This final rule updates those fees and service charges consistent with that direction. The fee adjustments in this rule are based on the mathematical formula set forth in the 2005 Cost Recovery Rule. The public had an opportunity to comment on that adjustment procedure as part of the 2005 rulemaking. Accordingly, the Department of the Interior for good cause finds under 5 U.S.C. 553(b)(B) and (d)(3) that notice and public comment procedures are unnecessary and that the fee adjustments in this rule may be effective less than 30 days after publication. See 43 CFR 3000.10(c).

II. Discussion of Final Rule

As set forth in the 2005 Cost Recovery Rule, the fee updates are based on the change in the IPD-GDP. The BLM's minerals program publishes the updated cost recovery fees, which become effective on October 1, the start of the fiscal year (FY).

This rule updates the cost recovery fees established by the cost recovery fee rule published on September 28, 2018 (83 FR 48957), effective October 1, 2018. This rule updates the cost recovery fees used in Fiscal Year 2019 for Fiscal Year 2020. The update adjusts the 2019 fees based on the change in the IPD-GDP from the 4th Quarter of 2017 to the 4th Quarter of 2018.

Under this rule, 24 fees will remain the same and 24 fees will increase. Of the 24 fees that are being increased by this rule, 13 will increase by \$5 each, seven will increase by \$10 each, two will increase by \$15 each, and two will increase by more than \$15. The largest increase, \$75, will be applied to the fee for adjudicating a mineral patent application containing more than 10 claims, which will increase from \$3,215 to \$3,290. The fee for adjudicating a patent application containing 10 or fewer claims will increase by \$40, from \$1,605 to \$1,645. It is important to note that the "real" values of the fees are not actually increasing, since real values account for the effect of inflation. In real terms, the values of the fees are simply being adjusted to account for the changes in the prices of goods and services produced in the United States.

The calculations that resulted in the new fees are included in the table below:

FIXED COST RECOVERY FEES	Existing Fee¹ (FY 2019)	Existing Value²	IPD-GDP Increase³	New Value⁴	New Fee⁵ (FY 2020)
Oil & Gas (parts 3100, 3110, 3120, 3130, 3150)					
Noncompetitive lease application	\$ 425	\$ 427.283	\$ 9.998	\$ 437.281	\$ 435
Competitive lease application	165	165.819	3.880	169.699	170
Assignment and transfer of record title or operating rights	95	95.656	2.238	97.894	100
Overriding royalty transfer, payment out of production	15	12.752	0.298	13.050	15
Name change, corporate merger or transfer to heir/devisee	225	223.197	5.222	228.419	230
Lease consolidation	470	471.909	11.042	482.951	485
Lease renewal or exchange	425	427.283	9.998	437.281	435
Lease reinstatement, Class I	85	82.893	1.939	84.832	85
Leasing under right-of-way	425	427.283	9.998	437.281	435
Geophysical exploration permit application - Alaska ⁶	25	25.000	1.712	26.712	25
Renewal of exploration permit - Alaska ⁶	25	25.000	1.712	26.712	25

¹ The Existing Fee was established by the 2018 (FY 2019) cost recovery fee update rule published September 28, 2018 (83 FR 48957), effective October 1, 2018.

² The Existing Value is the figure from the New Value column in the previous year's rule.

³ From 4th Quarter 2017 (108.713) to 4th Quarter 2018 (111.256), the IPD-GDP increased by 2.34 percent. The value in the IPD-GDP Increase column is 2.34 percent of the Existing Value. Two exceptions are noted in footnote 6.

⁴ The sum of the Existing Value and the IPD-GDP Increase is the New Value.

⁵ The New Fee for FY 2020 is the New Value rounded to the nearest \$5 for values equal to or greater than \$1 or rounded to the nearest penny for values under \$1.

⁶ In previous updates to the BLM's cost recovery fees, the BLM did not increase the fees for "Geophysical exploration permit application – Alaska" or "Renewal of exploration permit – Alaska" based on a provision in the Energy Policy Act of 2005 which prohibited fee increases "related to processing drilling-related permit applications and use authorizations." See, e.g., 83 FR 48957, 48959 (Sept. 28, 2018) (citing Pub. L. 109-58). However, that provision was repealed by legislation in 2014 and replaced with a narrower restriction on fee increases that does not apply to these permits. Pub. L. 113-291. From 4th Quarter 2014 (104.123) to 4th Quarter 2018 (111.256), the IPD-GDP increased by 6.85 percent. The change in IDP-GDP was not large enough to increase the new fee above \$25 for this update. In future years, the BLM will update this fee based upon a 1-year change in IDP-GDP, as it does for the other fees.

FIXED COST RECOVERY FEES	Existing Fee¹ (FY 2019)	Existing Value²	IPD-GDP Increase³	New Value⁴	New Fee⁵ (FY 2020)
Geothermal (part 3200)					
Noncompetitive lease application	425	427.283	9.998	437.281	435
Competitive lease application	165	165.819	3.880	169.699	170
Assignment and transfer of record title or operating right	95	95.656	2.238	97.894	100
Name change, corporate merger or transfer to heir/devisee	225	223.197	5.222	228.419	230
Lease consolidation	470	471.909	11.042	482.951	485
Lease reinstatement	85	82.893	1.939	84.832	85
Nomination of lands	120	119.383	2.793	122.176	120
Plus per acre nomination fee	0.12	0.119	0.002	0.121	0.12
Site license application	65	63.771	1.492	65.263	65
Assignment or transfer of site license	65	63.771	1.492	65.263	65
Coal (parts 3400, 3470)					
License to mine application	15	12.752	0.298	13.050	15
Exploration license application	350	350.749	8.207	358.956	360
Lease or lease interest transfer	70	70.163	1.641	71.804	70
Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)					
Applications other than those listed below	40	38.267	0.895	39.162	40
Prospecting permit amendment	70	70.163	1.641	71.804	70
Extension of prospecting permit	115	114.789	2.686	117.475	115
Lease modification or fringe acreage lease	30	31.896	0.746	32.642	35
Lease renewal	550	548.454	12.833	561.287	560
Assignment, sublease, or transfer of operating rights	30	31.897	0.746	32.643	35
Transfer of overriding royalty	30	31.897	0.746	32.643	35
Use permit	30	31.897	0.746	32.643	35
Shasta and Trinity hardrock mineral lease	30	31.897	0.746	32.643	35
Renewal of existing sand and gravel lease in Nevada	30	31.897	0.746	32.643	35
Multiple Use; Mining (Group 3700)					
Notice of protest of placer mining operations	15	12.752	0.298	13.050	15
Mining Law Administration (parts 3800, 3810, 3830, 3850, 3860, 3870)					
Application to open lands to location	15	12.752	0.298	13.050	15
Notice of Location	20	19.122	0.447	19.569	20

FIXED COST RECOVERY FEES	Existing Fee¹ (FY 2019)	Existing Value²	IPD-GDP Increase³	New Value⁴	New Fee⁵ (FY 2020)
Amendment of location	15	12.752	0.298	13.050	15
Transfer of mining claim/site	15	12.752	0.298	13.050	15
Recording an annual FLPMA filing	15	12.752	0.298	13.050	15
Deferment of assessment work	115	114.789	2.686	117.475	115
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	30	31.897	0.746	32.643	35
Mineral Patent adjudication (more than ten claims)	3,215	3,214.181	75.211	3,289.392	3,290
(ten or fewer claims)	1,605	1,607.074	37.605	1,644.679	1,645
Adverse claim	115	114.789	2.686	117.475	115
Protest	70	70.163	1.641	71.804	70
Oil Shale Management (parts 3900, 3910, 3930)					
Exploration License Application	335	336.422	7.872	344.294	345
Assignment or sublease of record title or overriding royalty	70	68.431	1.601	70.032	70

Source for Implicit Price Deflator for Gross Domestic Product data: U.S. Department of Commerce, Bureau of Economic Analysis; Table 1.1.9. Implicit Price Def Product (accessed on August 13, 2019) Web link: <https://apps.bea.gov/iTable/iTable.cfm?reqid=19&step=2%20-%20reqid=19&step=3&isuri=1&1921=survey&1903=13>

III. How Fees Are Adjusted

The BLM took the base values (or “existing values”) upon which it derived the FY 2019 cost recovery fees (or “existing fees”) and multiplied it by the percent change in the IPD-GDP (2.34 percent for this update) to generate the “IPD-GDP increases” (in dollars). The BLM then added the “IPD-GDP increases” to the “existing values” to generate the “new values.” The BLM then calculated the “new fees” by rounding the “new values” to the closest multiple of \$5 for fees equal to or greater than \$1, or to the nearest cent for fees under \$1. The “new fees” are the updated cost recovery fees for FY 2020.

IV. Procedural Matters

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule, and the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

The BLM has determined that the rule will not have an annual effect on the economy of \$100 million or more. It will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The changes in this rule are much smaller than those in the 2005 final rule, which did not approach the threshold in Executive Order 12866. For instructions on how to view a copy of the analysis prepared in conjunction with the 2005 final rule, please contact one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section above.

This rule will not create inconsistencies or otherwise interfere with an action taken or planned by another agency. This rule does not change the relationships of the onshore minerals programs with other agencies' actions. These relationships are included in agreements and memoranda of understanding that will not change with this rule.

In addition, this final rule does not materially affect the budgetary impact of entitlements, grants, or loan programs, or the rights and obligations of their recipients. This rule applies an inflationary adjustment factor to existing user fees for processing certain actions associated with the onshore minerals programs.

Finally, this rule will not raise novel legal or policy issues. As explained above, this rule simply implements an annual process to account for inflation that was adopted by and explained in the 2005 Cost Recovery Rule.

Reducing Regulation and Controlling Regulatory Costs (EO 13771)

This action is not an EO 13771 regulatory action because it is not significant under EO 12866.

The Regulatory Flexibility Act

This final rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

As a result, a Regulatory Flexibility Analysis is not required. The Small Business Administration defines small entities as individual, limited partnerships, or small companies considered to be at arm's length from the control of any parent companies if they meet the following size requirements as established for each North American Industry Classification System (NAICS) code:

- Iron ore mining (NAICS code 212210): 750 or fewer employees
- Gold ore mining (NAICS code 212221): 1,500 or fewer employees
- Silver ore mining (NAICS code 212222): 250 or fewer employees
- Uranium-Radium-Vanadium ore mining (NAICS code 212291): 250 or fewer employees
- All Other Metal ore mining (NAICS code 212299): 750 or fewer employees
- Bituminous Coal and Lignite Surface Mining (NAICS code 212111): 1,250 or fewer employees
- Bituminous Coal Underground Mining (NAICS code 212112): 1,500 or fewer employees
- Crude Petroleum Extraction (NAICS code 211120): 1,250 or fewer employees
- Natural Gas Extraction (NAICS code 211130): 1,250 or fewer employees

- All Other Non-Metallic Mineral Mining (NAICS code 212399): 500 or fewer employees

The SBA would consider many, if not most, of the operators with whom the BLM works in the onshore minerals programs to be small entities. The BLM notes that this final rule does not affect service industries, for which the SBA has a different definition of “small entity.”

The final rule may affect a large number of small entities because 24 fees for activities on public lands will be increased. The adjustments result in no increase in the fees for processing 24 actions relating to the BLM’s minerals programs. The highest adjustment, in dollar terms, is for adjudications of mineral patent applications involving more than 10 mining claims; that fee will increase by \$75. It is important to note that the “real” values of the fees are not actually increasing, since real values account for the effect of inflation. In real terms, the values of the fees are simply being adjusted to account for the changes in the prices of goods and services produced in the United States. Accordingly, the BLM has concluded that the economic effect of the rule’s changes will not be significant, even for small entities.

For the 2005 Cost Recovery Rule, the BLM completed a Regulatory Flexibility Act threshold analysis, which is available for public review in the administrative record for that rule. For instructions on how to view a copy of that analysis, please contact one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section above. The analysis for the 2005 rule concluded that the fees would not have a significant economic effect on a substantial number of small entities. The fee increases

implemented in this rule are substantially smaller than those provided for in the 2005 rule.

The Small Business Regulatory Enforcement Fairness Act

This final rule is not a “major rule” as defined at 5 U.S.C. 804(2). The final rule will not have an annual effect on the economy greater than \$100 million; it will not result in major cost or price increases for consumers, industries, government agencies, or regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Accordingly, a Small Entity Compliance Guide is not required.

Executive Order 13132, Federalism

This final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. In accordance with Executive Order 13132, the BLM therefore finds that the final rule does not have federalism implications, and a federalism assessment is not required.

The Paperwork Reduction Act of 1995

This rule does not contain information collection requirements that require a control number from the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521). After the effective date of this rule, the new fees may affect the non-hour burdens associated with the following control numbers:

Oil and Gas

- (1) 1004-0034 which expires June 30, 2021;
- (2) 1004-0137 which expired October 31, 2021
- (3) 1004-0162 which expires October 31, 2021;
- (4) 1004-0185 which expires December 31, 2021;

Geothermal

- (5) 1004-0132 which expires February 29, 2020;

Coal

- (6) 1004-0073 which expires January 31, 2020;

Mining Claims

- (7) 1004-0025 which expires February 28, 2022;
- (8) 1004-0114 which expires January 31, 2020; and

Leasing of Solid Minerals Other Than Oil Shale

- (9) 1004-0121 which expires August 31, 2019.⁷

Takings Implication Assessment (Executive Order 12630)

As required by Executive Order 12630, the BLM has determined that this rule will not cause a taking of private property. No private property rights will be affected by a rule that merely updates fees. The BLM therefore certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights.

Civil Justice Reform (Executive Order 12988)

⁷ A renewal request for control number 1004-0121 was submitted to the Office of Management and Budget on July 24, 2019.

In accordance with Executive Order 12988, the BLM finds that this final rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

The National Environmental Policy Act (NEPA)

The BLM has determined that this final rule qualifies as a routine financial transaction and a regulation of an administrative, financial, legal, or procedural nature that is categorically excluded from environmental review under NEPA pursuant to 43 CFR 46.205 and 46.210(c) and (i). The final rule does not meet any of the 12 criteria for exceptions to categorical exclusions listed at 43 CFR 46.215. Therefore, neither an environmental assessment nor an environmental impact statement is required in connection with the rule (40 CFR 1508.4).

The Unfunded Mandates Reform Act of 1995

The BLM has determined that this final rule is not significant under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 et seq., because it will not result in State, local, private sector, or tribal government expenditures of \$100 million or more in any one year, 2 U.S.C. 1532. This rule will not significantly or uniquely affect small governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act.

Consultation and Coordination with Indian Tribal Governments (Executive Order 13175)

In accordance with Executive Order 13175, the BLM has determined that this final rule does not include policies that have tribal implications. Specifically, the rule would not have substantial direct effects on one or more Indian tribes. Consequently, the

BLM did not utilize the consultation process set forth in Section 5 of the Executive Order.

Information Quality Act

In developing this rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. No. 106-554).

Effects on the Nation's Energy Supply (Executive Order 13211)

In accordance with Executive Order 13211, the BLM has determined that this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It merely adjusts certain administrative cost recovery fees to account for inflation.

Author

The principal author of this rule is Chandra Little of the Division of Regulatory Affairs, Bureau of Land Management.

List of Subjects in 43 CFR Part 3000

Public lands--mineral resources, Reporting and recordkeeping requirements.

For reasons stated in the preamble, the Bureau of Land Management amends 43 CFR part 3000 as follows:

PART 3000 – MINERALS MANAGEMENT: GENERAL

1. The authority citation for part 3000 continues to read as follows:

Authority: 16 U.S.C. 3101 et seq.; 30 U.S.C. 181 et seq., 301–306, 351–359, and 601 et seq.; 31 U.S.C. 9701; 40 U.S.C. 471 et seq.; 42 U.S.C. 6508; 43 U.S.C. 1701 et seq.; and Pub. L. 97–35, 95 Stat. 357.

Subpart 3000 – General

2. Amend § 3000.12 by revising paragraph (a) to read as follows:

§ 3000.12 What is the fee schedule for fixed fees?

(a) The table in this section shows the fixed fees that must be paid to the BLM for the services listed for FY 2020. These fees are nonrefundable and must be included with documents filed under this chapter. Fees will be adjusted annually according to the change in the Implicit Price Deflator for Gross Domestic Product (IPD-GDP) by way of publication of a final rule in the Federal Register and will subsequently be posted on the BLM Web site (<http://www.blm.gov>) before October 1 each year. Revised fees are effective each year on October 1.

Table 1 to Paragraph (a)--FY 2020 Processing and Filing Fee Table

Document/Action	FY 2020 Fee
Oil & Gas (parts 3100, 3110, 3120, 3130, 3150)	
Noncompetitive lease application	\$435
Competitive lease application	170
Assignment and transfer of record title or operating rights	100
Overriding royalty transfer, payment out of production	15
Name change, corporate merger or transfer to heir/devisee	230
Lease consolidation	485
Lease renewal or exchange	435
Lease reinstatement, Class I	85
Leasing under right-of-way	435
Geophysical exploration permit application – Alaska	25
Renewal of exploration permit – Alaska	25
Geothermal (part 3200)	
Noncompetitive lease application	435
Competitive lease application	170

Document/Action	FY 2020 Fee
Assignment and transfer of record title or operating rights	100
Name change, corporate merger or transfer to heir/devisee	230
Lease consolidation	485
Lease reinstatement	85
Nomination of lands	120
plus per acre nomination fee	0.12
Site license application	65
Assignment or transfer of site license	65
Coal (parts 3400, 3470)	
License to mine application	15
Exploration license application	360
Lease or lease interest transfer	70
Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)	
Applications other than those listed below	40
Prospecting permit application amendment	70
Extension of prospecting permit	115
Lease modification or fringe acreage lease	35
Lease renewal	560
Assignment, sublease, or transfer of operating rights	35
Transfer of overriding royalty	35
Use permit	35
Shasta and Trinity hardrock mineral lease	35
Renewal of existing sand and gravel lease in Nevada	35
Public Law 359; Mining in Powersite Withdrawals: General (part 3730)	
Notice of protest of placer mining operations	15
Mining Law Administration (parts 3800, 3810, 3830, 3850, 3860, 3870)	
Application to open lands to location	15
Notice of location ¹	20
Amendment of location	15
Transfer of mining claim/site	15
Recording an annual FLPMA filing	15
Deferment of assessment work	115

Document/Action	FY 2020 Fee
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	35
Mineral patent adjudication	3,290 (more than 10 claims) 1,645 (10 or fewer claims)
Adverse claim	115
Protest	70
Oil Shale Management (parts 3900, 3910, 3930)	
Exploration license application	345
Application for assignment or sublease of record title or overriding royalty	70

¹To record a mining claim or site location, this processing fee along with the initial maintenance fee and the one-time location fee required by statute (43 CFR part 3833) must be paid.

* * * * *

Casey Hammond

Acting Assistant Secretary,

Land and Minerals Management

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